

Hon. Thomas S. Zilly

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

KINSALE INSURANCE COMPANY, a  
foreign insurer

Plaintiff,

v.

RUFF CONSTRUCTION INC., f/k/a RUFF  
CONSTRUCTION & MAINTENANCE,  
INC., a Washington corporation; and JOSE  
FRANCISCO MORALES OLGUIN, an  
individual,

Defendants.

No. 2:22-cv-1045 TSZ

**KINSALE INSURANCE COMPANY'S  
NOTICE OF VOLUNTARY DISMISSAL  
OF CLAIMS AGAINST RUFF  
CONSTRUCTION & MAINTENANCE,  
INC. WITH PREJUDICE AND  
WITHOUT COSTS PURSUANT TO FED.  
R. Civ. P. 41(a)(1)(A)(i)**

PLEASE TAKE NOTICE that pursuant to Fed. Rule Civ. P. 41(a)(1)(A)(i), Kinsale Insurance Company (Kinsale) hereby voluntarily dismisses all claims against defendant Ruff Construction, Inc. ("Ruff") in this action with prejudice and without fees or costs to any party.

In pertinent part, Fed. R. Civ. P. 41(a)(1) provides as follows:

**(a) Voluntary Dismissal**

**(1) *By the Plaintiff***

**(A)** Without Court Order. Subject to Rules 23(e), 23.1(c), 23.2 and 66 and any applicable federal statute, the plaintiff may dismiss an action without a court order by filing:

(i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment; . . .

. . .

(B) Effect. Unless the notice of stipulation states otherwise, the dismissal is without prejudice. . . .

Fed. R. Civ. P. 41(a)(1).

A plaintiff has an absolute right to a voluntary dismissal under Rule 41(a)(1) prior to the time the defendant serves an answer or files a motion for summary judgment and the dismissal becomes effective upon filing of the notice. *Concha v. London*, 62 F.3d. 1493, 1506 (9th Cir. 1995). A court order is not required. *Id.*

Here, Kinsale is entitled to voluntarily dismiss the claims against Ruff with prejudice dismissal of the claims against Ruff because Ruff has neither answered nor filed a motion for summary judgment even though defendant Jose Francisco Morales Olguin has answered. *See Pedrina v. Han Kuk Chun*, 987 F.2d 608, 609-10 (9th Cir. 1993). Further, because the issues between Ruff and Kinsale have been resolved through a settlement agreement (*See* Dkt. 39-1) Kinsale hereby provides notice that the dismissal is **with prejudice** and without costs or fees to Kinsale and/or Ruff.

DATED this 24th day of April, 2023.

LEATHER LAW GROUP

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**CERTIFICATE OF SERVICE**

The undersigned hereby certify under the penalty of perjury under the laws of the State of Washington that on this date I caused to be served in the manner noted below a true and correct copy of the foregoing on the parties mentioned below as indicated:

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*Counsel for Jose Olguin*

**By:** ☐ **First Class Mail** ☒ **ECF**

DATED this 24th day of April 2023 at Seattle, Washington.

/s/ Nico Schulz  
Nico Schulz | Paralegal